

11/31/91

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
BEFORE THE ADMINISTRATOR

IN THE MATTER OF )  
 )  
SPARTA WASTEWATER TREATMENT ) Docket No. CWA-A0-10-90  
PLANT, )  
 )  
Respondent )

ORDER GRANTING MOTIONS FOR ACCELERATED DECISION  
AND FOR EXTENSION OF TIME TO FILE PREHEARING EXCHANGE

On September 4, 1990 Complainant filed a complaint against Respondent, Sparta Wastewater Treatment Plant, alleging, inter alia, violations of Section 301(a) of the Clean Water Act, as amended (CWA), 33 U.S.C. 1311(a). More specifically, the complaint alleged that Respondent had violated Section 301(a) by discharging pollutants into the Lacrosse River in excess of its permitted limits set forth in its National Pollution Discharge Elimination System ("NPDES") Permit, No. WI 0020737, during the period of July 1988 to March 1990. Pursuant to Section 309(g) of the CWA, 33 U.S.C. Section 1319(g), the Complainant proposed the assessment of a civil penalty in the amount of \$53,000. On September 27, 1990, Respondent<sup>1</sup> filed an Answer to Administrative Complaint and Request for Hearing in which it admitted the allegations contained in the complaint, but took exception to the appropriateness of the amount of the proposed penalty assessment. Respondent requested a

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<sup>1</sup>Filed by the City of Sparta, Wisconsin, The Honorable Milo D. Seubert, Mayor.

hearing pursuant to Section 309(g)(4)(B) of the CWA, (33 U.S.C. 1319(g)(4)(B)), to present evidence on the appropriateness of the proposed penalty assessment.

Subsequently, by letter of October 30, 1990 the undersigned Presiding Officer issued a letter outlining certain prehearing requirements and establishing dates for a prehearing exchange. Thereafter, on December 20, 1990 Complainant filed a Motion for Accelerated Decision pursuant to Section 22.20 of the Consolidated Rules of Practice, 40 C.F.R. Part 22, seeking resolution of the issue of liability in favor of Complainant on the ground that Respondent, in its answer to the complaint, admitted the violations of Section 301(a) alleged in the complaint. Respondent interposed no objection to Complainant's Motion for Accelerated Decision, "finding that the permit exceedances occurred on the dates and in the amounts specified in the Complaint in this matter."<sup>2</sup>

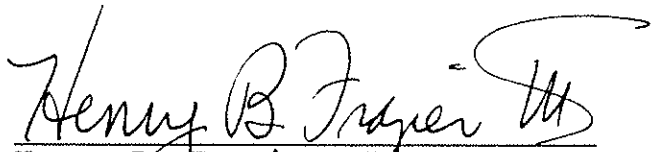
Since Respondent admits to the violations in this matter and concurs in the motion for an accelerated decision, Complainant's motion is hereby granted and judgment is entered in favor of the Complainant on the issue of liability in this matter. Accordingly, the allegations set forth in Article II, Findings of Violation, Paragraphs one (1) through eleven (11) of the complaint are hereby adopted and incorporated by reference in this Order. The sole issue of the appropriateness of the proposed penalty assessment remains outstanding in this proceeding.

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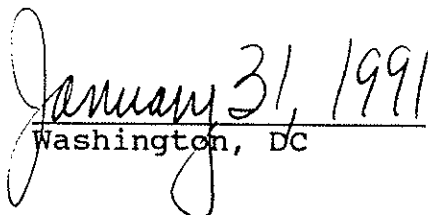
<sup>2</sup>Respondent's Memorandum on Motion for Accelerated Decision dated December 28, 1990.

Complainant, on January 3, 1991, filed, with the concurrence of Respondent, a Motion for Extension of Time to File Prehearing Exchange in this matter. The motion is hereby granted. The original schedule set forth in my letter dated October 30, 1990 for the filing of prehearing exchanges and replies thereto is rescinded. The following new schedule of deadline dates is established to govern the resolution of the matter of the appropriateness of the penalty assessment. In the final paragraph of my October 30, 1990 letter, the date of January 8, 1991, is changed to February 8, 1991 and January 18, 1991, is changed to February 22, 1991.

So ORDERED.

  
Henry B. Frazier, III  
Chief Administrative Law Judge

Dated:

  
Washington, DC

IN THE MATTER OF SPARTA WASTEWATER TREATMENT PLANT, Respondent,  
Docket No. CWA-A0-10-90

Certificate of Service

I hereby certify that this Order Granting Motions for Accelerated Decision and for Extension of Time To File Prehearing Exchange, dated January 31, 1991, was mailed this day in the following manner to the below addressees:

Original by Regular Mail to:

Beverly Shorty  
Regional Hearing Clerk  
U.S. EPA, Region 5  
230 South Dearborn Street  
Chicago, IL 60604

Copy by Certified Mail,  
Return Receipt Requested, to:

Attorney for Complainant:

Richard R. Wagner, Esquire  
Assistant Regional Counsel  
U.S. EPA, Region 5  
230 South Dearborn Street  
Chicago, IL 60604

Attorney for Respondent:

Walter Kuhlman, Esquire  
Boardman, Suhr, Curry & Field  
One South Pinckney St.  
Suite 410, P.O. Box 927  
Madison, WI 53701

  
Doris M. Thompson  
Secretary

Dated:

January 31, 1991